

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

THOMAS EDWARD DESKINS,)	
)	
Plaintiff,)	No. C08-5127 RBL
)	
v.)	PLAINTIFF'S AMENDED UNOPPOSED
)	MOTION TO FILE AN OVERLENGTH
CITY OF BREMERTON, et al.,)	BRIEF IN RESPONSE TO
)	DEFENDANT/TROOPER HEDSTROM'S
Defendants)	MOTION FOR PARTIAL SUMMARY
)	JUDGMENT, AND ORDER
_____)	

Noted for Consideration: March 31, 2009

COMES NOW the plaintiff, Thomas Edward Deskins, by and through his attorney, John R. Muenster, and moves this Honorable Court for an order granting plaintiff leave to file an overlength brief in opposition to defendant/Trooper Hedstrom's motion for partial summary judgment, due to the number of issues which needed to be addressed.

In support of this motion, the following is shown:

PLAINTIFF'S AMENDED MOTION TO FILE
OVERLENGTH BRIEF - 1

MUENSTER & KOENIG
JOHN R. MUENSTER, INC., P.S.
1111 THIRD AVE., SUITE 2220
SEATTLE, WASHINGTON 98101
(206)467-7500
FAX: (206)467-0101

1 (1) Undersigned counsel contacted counsel for defendant/Trooper Hedstrom, Ken Orcutt,
2 via telephone on Monday, March 30th, about this motion. Mr. Orcutt advised the undersigned that he
3 did not oppose the motion.

4 (2) Plaintiff's response has been prepared and was filed yesterday, March 30, 2009,
5 Document No. 51.

6 (3) The following issues were briefed:

7 (a) The traffic stop of Mr. Deskins was unreasonable under the Fourth
8 Amendment;

9 (b) Defendant Hedstrom did not have reasonable suspicion to stop Mr. Deskins for
10 driving under the influence;

11 (c) Mr. Deskins was arrested when the police drew their guns and aimed their guns
12 at him;

13 (d) Trooper Hedstrom lacked grounds to arrest Mr. Deskins under RCW
14 46.61.021;

15 (e) The trooper was not authorized to detain Mr. Deskins under RCW
16 46.61.021(2);

17 (f) Trooper Hedstrom did not have probable cause to arrest Mr. Deskins for
18 obstructing;

19 (g) Trooper Hedstrom did not have probable cause to arrest Mr. Deskins for
20 driving under the influence;

21 (h) Trooper Hedstrom used excessive force by pointing her firearm at Mr.
22 Deskins;

23 (i) Analysis of the use of force principles of analysis under *Graham v. Connor*;

24 (j) Trooper Hedstrom is liable for Officer Mayfield's use of the taser;

25 (k) Trooper Hedstrom is not entitled to qualified immunity;

1 (l) The constitutional rights at issue were clearly established.

2 Based on the foregoing, undersigned counsel requests that the Court enter the attached
3 proposed order granting permission to file the overlength brief, Document No. 51.

4 DATED this the 31st day of March, 2009.

5 Respectfully submitted,

6 MUENSTER & KOENIG

7
8 By: S/John R. Muenster

9 JOHN R. MUENSTER
10 WSBA No. 6237
11 Attorney at Law
Of Attorneys for Plaintiff Thomas Edward Deskins


12 *ORDER*

13 The Court has reviewed plaintiff's unopposed motion to file an overlength brief in response
14 to defendant/Trooper Hedstrom's motion for partial summary judgment. The Court finds that the
15 requested relief is appropriate. Accordingly,

16 IT IS HEREBY ORDERED that plaintiff's motion to file an overlength brief in response to
17 defendant/Trooper Hedstrom's motion for partial summary judgment be, and the same hereby is,
18 granted; and

19 IT IS FURTHER ORDERED that the overlength brief shall be received and filed.

20 DATED this 1st day of April, 2009.

21 
22 RONALD B. LEIGHTON
23 UNITED STATES DISTRICT JUDGE
24

1 Presented by:

2 MUENSTER & KOENIG

3 By: S/John R. Muenster

4 John R. Muenster

5 Attorney at Law

6 WSBA No. 6237

Of Attorneys for Plaintiff Thomas Edward Deskins

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28 PLAINTIFF'S AMENDED MOTION TO FILE
OVERLENGTH BRIEF - 4

MUENSTER & KOENIG
JOHN R. MUENSTER, INC., P.S.
1111 THIRD AVE., SUITE 2220
SEATTLE, WASHINGTON 98101
(206)467-7500
FAX: (206)467-0101